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GOVERNMENT OF INDIA

MINISTRY OF FINANCE (REVENUE DIVISION)

ORDERS

*New Delhi, the 3rd December, 1949.*

**No. 22(40)-I.T./49.**—The following Order made by the Central Government is published for general information:—

**THE MERGED STATES (TAXATION CONCESSIONS) ORDER, 1949**

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922) and section 23A of the Business Profits Tax Act, 1947 (XI of 1947) the Central Government is pleased to make the exemptions, reductions in rate of tax and the modifications specified in this Order.

2. This Order may be cited as the Merged States (Taxation Concessions) Order, 1949.

3. In this Order—

- (i) the 'Ordinance' means the Taxation Laws (Extension to Merged States) Ordinance, 1949;
- (ii) the expression 'Indian rate of tax' means the rate determined by dividing the amount of income-tax and super-tax payable in British India on the total income for the year in question by the amount of such total income;
- (iii) the expression 'Merged State rate of tax' means the rate determined by dividing the amount of income-tax and super-tax payable on the total income according to the rates of tax in force in the merged State for the year in question by the amount of such total income.

*Explanation.*—Where there was no State law relating to charge of income-tax and super-tax, the merged State rate of tax shall be deemed to be nil;

- (iv) the expression 'State law' means any law relating to income-tax, super-tax or business profits tax in force in the merged State immediately before the commencement of the Ordinance.

4. The provisions of paragraphs 5, 6, 9, 10 and 11 of this Order shall apply to only so much of the income, profits and gains included in the total income of an assessee as would, had he been resident in British India, have been exempt under clause (c) of sub-section (2) of section 14 of the Indian Income-tax Act, 1922, if the Ordinance had not been promulgated.

5. (1) The income, profits and gains of any previous year ending *after* the 31st day of March, 1948, which is a previous year—

(i) for the merged State assessment year 1948-49; or

(ii) for the merged State assessment year 1949-50,

shall be assessed under the Indian Income-tax Act, 1922, if, and only if, such income, profits and gains have not, before the 1st day of August, 1949, been assessed under the State law.

(2) Where the income, profits and gains referred to in sub-paragraph (1) have not been assessed under the State law, they shall be assessed under the Indian Income-tax Act, 1922, and the tax payable thereon shall be determined as hereunder—

(i) the tax on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax;

(ii) the amount of such income, profits and gains shall be computed under the State law and the tax thereon computed at the merged State rate of tax;

(iii) the amount, if any, by which the tax computed under clause (i) exceeds the tax computed under clause (ii) shall be allowed as rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable

(3) For the purposes of this paragraph—

(a) the merged State assessment year 1948-49 means the assessment year which commences on any date between the 1st April, 1948 and the 31st December 1948, both dates inclusive, and

(b) the merged State assessment year 1949-50 means the assessment year which commences on any date between the 2nd January, 1949 and the 31st July 1949 both dates inclusive.

6. (1) The income, profits and gains of any previous year commencing after the previous year referred to in paragraph five of this Order shall be assessed under the Indian Income-tax Act, 1922, but the tax payable on so much of the income as pertains to the period ending before the 1st day of August, 1949, shall be determined as hereunder—

(i) the tax on so much of such income included in the total income shall be computed (a) at the Indian rate of tax and (b) at the rates of tax in force in the merged State immediately before the 1st day of August 1949;

(ii) the amount by which the tax computed under sub-clause (a) of clause (i) exceeds the tax computed under sub-clause (b) of clause (i) shall be allowed as rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable.

(2) Where any previous year falls partly before and partly on or after the 1st day of August, 1949, the income, profits and gains pertaining to the period falling before the said date shall, unless the Income-tax Officer, having regard to any special circumstances, otherwise directs with the approval of the Inspecting Assistant Commissioner of Income-tax, be in the proportion which the period before the said date bears to the whole previous year.

7. (1) Where, before the commencement of the Ordinance, any income has been assessed in the merged State and also in British India, double income-tax relief which would have been admissible in British India under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939 and in the merged State under the corresponding Rules shall be allowed.

(2) Where, before the commencement of the Ordinance any income accruing or arising before the 1st day of August, 1949, has been assessed in the merged State or in British India, and the whole or part of such income is also assessable in British India or the merged State, as the case may be, the tax payable in respect of the assessment to be made shall be reduced by the amount of double income-tax relief which would have been allowable in accordance with sub-paragraph (1).

8 (1) Notwithstanding anything contained in Explanation 4 to sub-section (1) of section 4 of the Indian Income-tax Act, 1922, the income, profits and gains brought into or received in any part of British India other than the merged State, after the 31st day of July 1949, shall not be charged to tax as income of the previous year in which they are so brought or received except where—

(i) the assessee is a person who has been assessed or is assessable in British India as resident for three out of six years of assessment commencing on the 1st day of April, 1949, and ending on the 31st day of March, 1949; and

(ii) such income, profits and gains—

(a) being assessable in the merged State had not been assessed; or

(b) being liable to be included in British India in the 'total income' of the relevant year under the provisions of the Indian Income-tax Act, 1922, had not been included.

(2) where the income, profits and gains referred to in sub-paragraph (1) are chargeable as the income of the previous year, in accordance with the provisions of that sub-paragraph, the tax payable thereon shall be determined as hereunder—

(i) the tax payable on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax;

(ii) the tax payable in the merged State in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the merged State rate of tax;

(iii) the tax payable in British India in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the Indian rate of tax;

(iv) the sum of the taxes payable under clauses (ii) and (iii) shall be reduced by the amount of the double income-tax relief, if any, which would have been allowable in accordance with sub-paragraph (1) of paragraph 7;

(v) the amount by which the tax computed under clause (i) exceeds the tax computed under clause (iv) shall be allowed as a rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable.

9. Where the total income of any previous year ending on or after the 1st day of April, 1948, includes any income under the head capital gains arising before the said date, such capital gains shall not be charged to tax under the Indian Income-tax Act, 1922, unless the State law contains a provision corresponding to section 12B of the said Act. Where such capital gains are chargeable to tax, the computation of tax shall be subject to the provision of paragraph five of this Order.

10. In computing the total income of an assessee for any period before the 1st day of August, 1949, for the purposes of paragraphs five and six of this Order, the provisions of clause (c) of sub-section (1) and of sub-section (8), of

section 16 of the Indian Income-tax Act, 1922, shall not be applied unless the State Law contains provisions corresponding thereto.

11 (1) The provisions of section 18A of the Indian Income-tax Act regarding the advance payment of tax shall not be applied in the year ending on the 31st day of March, 1950, in respect of any income accruing or arising in a merged State unless the State Law contains a provision corresponding thereto

(2) Where the provisions of Section 18A of the Indian Income-tax Act are applicable in the year ending on the 31st day of March, 1950, or any subsequent year the expression "latest previous year in respect of which he has been assessed" in clause (a) of sub-section (1) of the said section shall be deemed to mean the latest previous year in respect of which he has been assessed either in the merged State or in British India or in both, as the case may be

Provided that where the income of the latest previous year in respect of which a person has been assessed in the State and in British India is to be taken in aggregate for the purposes of this paragraph, so much of such income as has been included in both the assessments should be excluded from the aggregate.

12. The provisions of section 23A of the Indian Income-tax Act, shall not be applied in respect of the profits and gains of any previous year ending before the 1st day of August, 1949, unless the State Law contains a provision corresponding thereto.

13 Any income falling within the following classes shall be exempt from income-tax and super-tax and shall not be included in the total income or total world income of the person receiving them:

(i) The privy purse of the Ruler of a merged State

(ii) Any sum which the mother or the father's mother of the person who was a Ruler of a merged State before the 1st day of August, 1949, receives as her maintenance allowance out of public revenues, for so long as such allowance is received by her in the merged State and is not brought into or received in any part of British India.

(iii) Any pension paid out of public revenues which a person receives as the subordinate chief of the Ruler of a merged State where such pension was payable to him in that capacity by the Ruler immediately before the 1st day of August, 1949. ✓

14. No business profits tax shall be payable under the Business Profits Tax Act, 1947, in respect of such profits arising in any accounting period falling within the year ending on the 31st day of March, 1949, as are exempt under the second proviso to section 5 of the said Act, unless, immediately before the commencement of the Ordinance, there was in force in the merged State any law relating to the charge of business profits tax. If there was any such law, the business profits tax payable under the Business Profits Tax Act, 1947, shall be reduced so as not to exceed the tax that would have been payable if the profits were computed and the tax charged in accordance with the merged State Law.

15 (1) Where any industrial undertaking situate in a merged State claims that it has been granted any exemption from or concession in respect of income-tax, super-tax or business profits tax by the Ruler of the State before the 1st

day of August, 1949, it shall submit an application to the Commissioner of Income-tax giving the following particulars:—

1. Name of the Industrial undertaking.
2. Status (*i.e.* whether public or private company, firm, individual or Hindu undivided family.)
3. Nature of the business.
4. Date of commencement of the business.
5. Nature of the concessions granted.
6. period for which concessions granted.
7. Unexpired period of the concessions from 1st day of August, 1949.

(2) The application shall be accompanied by a copy of the orders of the State granting the concession or of the agreement with the State.

(3) The Commissioner shall, after obtaining such other information as he may require, forward the application to the Central Government which, having regard to all the circumstances of the case, may grant such relief, if any, as it thinks appropriate.

No. 22(40)-I.T./49.—The following Order made by the Central Government is published for general information:—

#### TAXATION LAWS (MERGED STATES) (REMOVAL OF DIFFICULTIES) ORDER, 1949

WHEREAS certain difficulties have arisen in giving effect to the provisions of the Taxation Laws (Extension to Merged States) Ordinance, 1949 (No. XXI of 1949),

Now THEREFORE, in exercise of the powers conferred by section 8 of the said Ordinance, the Central Government is pleased to make the following order, namely:—

1. This Order may be cited as the Taxation Laws (Merged States) (Removal of Difficulties) Order, 1949.

2. *Computation of aggregate depreciation allowance and the written-down value.*—In making any assessment under the Indian Income-tax Act, 1922, all depreciation *actually allowed* under any laws or rules of a merged State relating to income-tax and super-tax, shall be taken into account in computing the aggregate depreciation allowance referred to in sub-clause (c) of the proviso to clause (vi) of sub-section 2, and the written-down-value under clause (b) of sub-section 5, of section 10 of the said Act:

Provided that where in respect of any asset, depreciation has been allowed for any year both in the assessment made in the merged State and in British India, the greater of the two sums allowed shall only be taken into account.

3. *Treatment of property transferred in a merged state before payment of taxes.*—Section 4 of the Payment of Taxes (Transfer of Property) Act, 1949, shall not apply in relation to any property situate in a merged state which had been transferred before the 1st day of August, 1949, or before the date on which the Transfer of Property (Payment of Taxes) Ordinance, 1948 (III of 1948), or the Payment of Taxes (Transfer of Property) Ordinance, 1948 (XXI of 1948), or the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), as the case may be, was applied to the merged state by an order under the Extra Provincial Jurisdiction Act, 1947.

P. C. PADHI, Addl. Secy.

## CUSTOMS

*New Delhi, the 26th November 1949*

**No. 66.**—In exercise of the Powers conferred by section 22 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government is pleased to fix, with effect from the 26th November 1949, the following tariff-value for Black pepper exported from the Provinces of India for the purpose of levying export duty thereon, namely —

		<i>Tariff-value</i>
Black pepper	...	... Rs. 200 per cwt.

K. R. P. AIYANGAR, Joint Secy.